

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LOS ALAMITOS UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2016010523

ORDER GRANTING MOTION TO
DISMISS ISSUES 1(B) AND 2(A)

On January 8, 2016, Parents on behalf of Student filed with the Office of Administrative Hearings a Request for Due Process Hearing (complaint), naming the Los Alamitos Unified School District. The complaint alleges four issues. Issues 1 (b) and 2 (a) allege that Los Alamitos violated Section 504 of the Rehabilitation Act of 1973.¹

On January 19, 2016, Los Alamitos filed a Motion to Dismiss Issues 1 (b) and 2 (a), alleging that OAH is without jurisdiction to hear claims based on Section 504.

OAH received no response to Los Alamitos' motion.

APPLICABLE LAW

The purpose of the Individuals with Disabilities Education Act (20 U.S.C. § 1400 et. seq.) is to “ensure that all children with disabilities have available to them a free appropriate public education”, and to protect the rights of those children and their parents. (20 U.S.C. § 1400(d)(1)(A), (B), and (C); see also Ed. Code, § 56000.) A party has the right to present a complaint “with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child.” (20 U.S.C. § 1415(b)(6); Ed. Code, § 56501, subd. (a) [party has a right to present a complaint regarding matters involving proposal or refusal to initiate or change the identification, assessment, or educational placement of a child; the provision of a FAPE to a child; the refusal of a parent or guardian to consent to an assessment of a child; or a disagreement between a parent or guardian and the public education agency as to the availability of a program appropriate for a child, including the question of financial responsibility].) The jurisdiction of OAH is limited to these matters. (*Wyner v. Manhattan Beach Unified Sch. Dist.* (9th Cir. 2000) 223 F.3d 1026, 1028-1029.) Thus, OAH does not have jurisdiction to entertain claims based on Section 504 alleged in Student’s complaint.

¹ 29 U.S.C. § 701 et seq.

ORDER

The District's Motion to Dismiss Issues 1 (b) and 2 (a) made pursuant to Section 504 of the Rehabilitation Act of 1973 is GRANTED. Issues 1 (b) and 2 (a) are hereby dismissed. The matter will proceed as scheduled as to all other remaining issues.

IT IS SO ORDERED.

DATE: January 20, 2016

/s/

ROBERT HELFAND
Administrative Law Judge
Office of Administrative Hearings